

This checklist was developed for use by examiners as part of policy and forms review.

Individual Term Life Insurance Application

Form Number _____

If the application form was previously approved, date of approval: _____

Note that if the application form was previously approved, it still must be submitted to make the filing complete.

- Any policy that contains a reference to the application, either as a part of the policy or as having any bearing thereon, must include the application for review, for the application is a part of the policy. *M.G.L. c. 175, §§ 131 and 192.* (No life company shall issue any policy of life insurance except upon a written application therefor signed or assented to in writing by the person to be insured.) *M.G.L. c. 175 § 123*
- The text achieves a minimum Flesch score of 50. The Flesch score for each form must be stated in the certification: a statement to the effect that the score exceeds 50 is not permitted. *M.G.L. c. 175 § 2B*

The use of AIDS-related information

- _____ application may not contain questions regarding counseling about AIDS or ARC or the sexual orientation of the applicant or proposed insured, policyholder or beneficiary. *211 CMR 36.08(1)*
- _____ application may ask whether the applicant or proposed insured has received a positive AIDS-related test result (other than an anonymous result obtained under the auspices of the Alternative Testing Sites of the Mass. Dept. of Public Health or the American Red Cross), whether he/she has received a medical diagnosis of or medical treatment for AIDS or ARC by a medical professional, and information about such diagnosis or treatment. *211 CMR 36.08(2)*
- _____ questions on application forms may be diagnostic or factual in nature, concerning whether an individual has been diagnosed or treated for AIDS or ARC. *211 CMR 36.08(3)*
- _____ questions cannot be subjective, vague, unfairly discriminatory, overly technical or ask for the opinion of the applicant or proposed insured. *211 CMR 36.08(3)*
- _____ if the application uses the terms “AIDS” “ARC” or “HIV” they must be defined or spelled out.

The use of genetic testing or genetic information

All of this section should be cited as M.G.L. c. 175, § 120E

- ____ Does the application refer to genetic tests?

_____ yes _____ no

If “no,” skip the rest of this section

- ____ “Genetic test” must be defined as “a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying genes, inherited or acquired

genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material, which are associated with a predisposition to disease, illness, impairment or other disease processes.” The term “genetic test” shall not include tests given for drugs, alcohol, cholesterol, or HIV; any test for the purpose of diagnosing or detecting an existing disease process; any test performed due to the presence of symptoms, signs or other manifestation of a disease, illness, impairment; or other disease process or any test, that is taken as a biopsy, autopsy, or clinical specimen solely for the purpose of conducting an immediate clinical or diagnostic test that is not a test of DNA, RNA, mitochondrial DNA, chromosomes or proteins.

- ☐ No insurer may require an applicant to undergo a genetic test as a condition of the issuance of a life insurance policy.
- ☐ An application may ask whether or not the applicant has taken a genetic test.
 - ☐ The application must state that the applicant is not required to answer any questions concerning genetic testing or genetic information.
 - ☐ There must be a statement informing the applicant that:
 - ☐ failure to answer the questions may result in an increased rate or denial of coverage.
 - ☐ if the applicant chooses to submit genetic information, the insurer is authorized to use that information to set the terms of a policy provided that such information is reliable information relating to the insured’s mortality or morbidity, based on sound actuarial principles, or actual or reasonably anticipated experience.

Fraud Warning

- ☐ Does the application contain a fraud warning?
 - ☐ yes ☐ no (**Note: Massachusetts does not require a fraud warning**)
 - If yes, its wording must comply with
 - ☐ the NAIC model language:
 - “ Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.”
 - OR
 - ☐ language required by one of the states that require specific language
 - ☐ must identify the state
 - ☐ must present support for using that state’s language on a Massachusetts form.
 - ☐ cannot use any state language that is specific to that state; *e.g.*, Florida states that a fraudulent statement is “a felony of the third degree.” This is not true of Massachusetts and the Florida warning could not, therefore, be used here.

Application form must conform to requirements of M.G.L. c. 175I and c. 176D re: information and privacy protection

___ **Compliance with § 4:**

A notice of information practices must be provided to all applicants no later than at the time the application for insurance is made. The notice must be in writing and must contain **EITHER** the following:

- ___ whether personal information may be collected from persons other than the individual proposed for coverage; *c. 175I § 4(b)(1)*
- ___ the type of personal information that may be collected and the type of source and investigative technique that may be used to collect such information; § *4(b)(2)*
- ___ the type of disclosure permitted by chapter 175I and the circumstances under which such disclosure may be made without prior authorization: provided, however, that only such circumstances need be described which occur with such frequency as to indicate a general business practice; § *4(b)(3)*
- ___ a description of the rights established under sections eight, nine and ten of c. 175I and the manner in which such rights may be exercised: § *(4)(b)(4)*
 - ___ Section 8 describes the right of an individual to obtain any personal information collected or maintained by the insurer upon written request, including any persons to whom the insurer has disclosed the information, and procedures by which such information may be corrected, amended, or deleted.
 - ___ Section 9 describes the right of an individual to have factual errors corrected and any misrepresentation or misleading information amended or deleted upon written request.
 - ___ Section 10 describes the right of an individual to receive the specific reason for an adverse underwriting decision in writing.
- ___ that information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons. § *4(b)(5)*

OR

- ___ an abbreviated notice may be used that informs the applicant that:
 - ___ personal information may be collected from a person other than the individual proposed for coverage; § *4(c)(1)*
 - ___ such information as well as other personal or privileged information subsequently collected by the insurance institution or insurance representative may in certain circumstances be disclosed to a third party without authorization; § *4(c)(2)*
 - ___ a right of access and correction exists with respect to all personal information collected; § *4(c)(3)*
 - ___ the more detailed notices described above will be furnished to the applicant upon request. § *(4)(c)(4)*

___ **Compliance with chapter 175I § 6:**

Disclosure authorization form must meet the following requirements of § 6:

- ___ 1. is written in plain language
- ___ 2. is dated
- ___ 3. specifies the types of persons authorized to disclose information about the individual
- ___ 4. specifies the nature of the information to be disclosed
- ___ 5. names the insurance company and identifies by generic reference the person to whom the applicant is authorizing information to be disclosed.
- ___ 6. specifies the purposes for which the information is collected.
- ___ 7. specifies that the authorization shall be valid for no longer than thirty months from the time it is signed
- ___ 8. advises the applicant that s/he is entitled to receive a copy of the authorization form.

Electronic signatures

___ Does the carrier contemplate using electronic signatures?

___ yes ___ no

The Division allows for electronic signature capture only when the application process involved and the software used can ensure the security of the consumer and the integrity of the sales process.

If yes, there must be a document explaining the procedure for signature capture and the security measures taken, including at a minimum:

- ___ The physical arrangements and actual presentation of data must be identical to the application form approved by the Division.
- ___ The signatures of the applicant and enroller must be displayed on the computer screen in real time.
- ___ Once accepted, the application record and signature must be bound in a single record.
- ___ “Awareness protection” must include confirmation dialogue that the signer understands precisely the intentions of the signature and must provide visual confirmation of the actual signing.
- ___ The encryption and storage of the signature and reviewed data to which it is attached must be automatic. Through encryption, the bonded signature and data cannot be changed without recognition of the fact that it was changed.
- ___ The software system must automatically purge electronic signatures from the file once the policy has been issued, to prevent the use of the signature for any purpose other than those specific to issuance of the policy.
- ___ A form, with a form number, must be given to prospective policyholders which explains the procedure and the security measures.

Requirements for replacement

Is the application for any of the following?

- ___ proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;
- ___ internal replacements where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, that agents or brokers proposing replacement shall comply with the requirements of agents who initiate the application;
- ___ insurance paid for wholly or partly by the insured's employer or by an association of which the insured is a member, or insurance in a qualified pension, profit sharing or other benefit plan;
- ___ life insurance policies issued in connection with a pension, profit sharing or other benefit plan qualifying for tax deductibility of premiums.

If yes to any of the above, 211 CMR 34.00 (i.e., the following section) does not apply.

Each application must contain (with or part of each application):

- ___ a statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction. *211 CMR 34.04(1)(a)*
- ___ a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction. *211 CMR 34.04(1)(b)*
 - ___ a request for a list of all existing life insurance and annuity to be replaced identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, can be listed. *211 CMR 34.04(2)(b)*
- ___ a provision that advises the applicant that the agent is required to leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant. *211 CMR 34.04(2)(c)*
- ___ a provision that advises the applicant that the agent is required to submit to the replacing insurer with the application a copy of the replacement notice *211 CMR 34.04(2)(d)*
- ___ The filing must include a notice regarding replacement in the following form or other substantially similar form approved by the insurance commissioner, intended for presentation to the applicant not later than at the time of taking the application. The notice shall be signed by both the applicant and the agent or broker and left with the applicant: *211 CMR 34.04(2)(a)*

**“IMPORTANT NOTICE REQUIRED BY THE COMMISSIONER OF
INSURANCE**

READ CAREFULLY BEFORE PROCEEDING

This notice is required by the Commissioner of Insurance because you have indicated that you are buying a new life insurance policy or annuity and discontinuing or changing an existing one. Such a decision could be a good one, or a mistake. You will not know for sure until you make a careful comparison of your existing policy and the proposed replacement policy. Premiums alone are not determinative of low cost. Take the time to obtain and understand the facts.

We are required by law to notify your existing company that you may be replacing their policy.

Consider both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

Cash Value Insurance: To make a comparison of cash value policies (policies with loan or surrender values in addition to death protection), consideration must be given to each policy's cash values, premiums, coverage amounts and dividends, if any, over the life of the policy.

To simplify this task, you may wish to request from your existing insurance company and the company issuing the replacement policy yield index figures for five, ten and 20 years. The yield index is a percentage that represents an estimate of the interest rate the insurer projects you will earn on the savings portion of the cash value policy. The policy with the higher yield index will generally be the better buy.

The Yield Index Committee of the National Association of Insurance Commissioners in 1986 devised a method for calculating a yield index. In order to request this yield index information, merely check the box below and your request will be forwarded to both insurance companies.

You can also compare the cash values and/or surrender values listed in the replacing company's policy summary for the first five policy years with those in your current policy for the next five years. Low cash values or surrender values in early policy years are often the result of high expenses associated with issuing a new policy. If the replacement policy has low values in its early years, it will usually take longer for it to provide you with benefits that equal or exceed the benefits of your existing policy. In some cases, the replacement policy may never provide benefits equal to those in your present policy.

Term Insurance: If you are replacing your present insurance policy with term insurance (policies that provide death protection only), it makes sense to shop for a low cost policy. Costs for term insurance vary widely and substantial savings may be realized by comparison shopping. Premiums alone are not always determinative of low cost since some policies pay dividends and others do not. You may wish to request interest-adjusted cost indices for five, ten and 20 years from several insurance companies including your existing insurer to help you compare term insurance premiums. The policy with the lower index numbers is usually the better buy. Please list below the identification of the policies which are involved in the replacement. Your existing insurer will be notified that you may be replacing their policy.

☐ Check box to request yield indices for cash value policies.

Applicant's Signature Date

Agent's Signature

Company/Contract No. Company/Contract No. Company/Contract No.

Note: If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer may delete the last sentence

and the references to signatures from such notice without having to obtain approval of the form from the commissioner. *211 CMR 34.07(1)*